

APPENDIX B

PUBLIC COMMENTS/HIGHLANDS COUNCIL RESPONSES

Petition for Plan Conformance

Vernon Township, Sussex County

Public Comment Period: April 13, 2012 – April 30, 2012

PUBLIC COMMENTS RECEIVED

Written comments regarding Vernon's Petition for Plan Conformance were accepted by the Highlands Council through the close of the Public Comment period on April 30, 2012. Comments were provided by the following individuals:

1. Helen Heinrich, on behalf of the New Jersey Farm Bureau
2. Erica Van Auken, on behalf of the Highlands Coalition

The comments are summarized below with Highlands Council responses provided.

PUBLIC COMMENT/RESPONSE SUMMARY

Comment: The New Jersey Farm Bureau expressed concern that since Vernon Township is only conforming for the Preservation Area, farms in the Planning Area may not receive the same priority level and because of its considerable development as a tourism and recreational destination, Vernon has a unique opportunity to encourage its farms to increase their income through direct marketing and agritourism. A stronger connection between the resorts and the output of Vernon and Sussex County farms could enhance the attraction and viability of both industries.

Response: The Highlands Council acknowledges the NJ Farm Bureau's concern and has included, as part of the Highlands Implementation Plan and Schedule, funding for a Farmland Preservation/Agricultural Retention Plan which will assist the Township in building on the existing Master Plan – Conservation Plan Element. The Farmland Preservation/Agricultural Retention Plan will be developed for the entire Township and is expected to investigate strategies for retaining and sustaining the agricultural economy of the municipality and the larger region. The Plan will also outline implementation actions intended to support sustainable agriculture and ancillary businesses that are an important component of the local economy.

Comment: The New Jersey Farm Bureau indicated that the Plan Conformance documents submitted by the Township appear to be an informative model for other Highlands municipalities in how to try to align existing land use with the new requirements of the Preservation Area. Only four of the RMP Update requests were granted and as usual the Highlands maps were changed immediately. On the other hand, updates in areas such as the Forest Area must await a consolidated regional mapping change. When an RMP Update is completed how long must an applicant or municipality wait for these types of regional changes to be formalized?

Response: The Highlands Council acknowledges the NJ Farm Bureau's concern regarding the timing of completing an update to region-wide information. As noted, if the municipal information results in processing an RMP Update it is incorporated into the Highlands spatial database at that time and an RMP Update Report incorporating the RMP Update along with revised municipal exhibits is provided, along with a determination. The Highlands Council recognizes that ongoing land use changes will result in a need for modifications to certain mapping of Highlands resources. In the case of forested areas, this will occur as new land use/land cover data become available, to avoid a need to process hundreds of individual requests regionally. The Highlands Council website contains the most updated information, and is monitored by Highlands Council GIS staff. Please note that Total Forest Area has been updated to reflect the 2007 Land Use/Land Cover data from the State, which is the most current available. The Forest Resource Area has not

been updated, as that requires a modeling process that will occur as part of the overall RMP re-examination. It is important to note that any RMP provisions applicable to the Forest Resource Area only affect the actual forested area, as determined for each site for which a development activity is proposed. However, it should be noted that any ongoing development in the Planning Area will not be affected by the RMP, as Vernon Township is not conforming for that area. Previously approved, ongoing development within the Preservation Area will qualify for an exclusion from the Highlands Land Use Ordinance or an exemption from the Highlands Act, and therefore the mapping will have no affect on these prior approvals. Should additional development be proposed, the development review will incorporate actual site data based upon a site survey, which will supersede the mapping provided by the Highlands Council

Comment: The New Jersey Farm Bureau indicated that requests to clarify matters about Critical Wildlife Habitat and habitat mapping – to go to DEP to prove absence of critical wildlife thus the need for a mapping change – only reinforces what farmland owners statewide find unacceptable. Landowners even trying to upgrade agricultural facilities have had to invest in expensive wildlife habitat surveys to prove to DEP that no species of any concern are using their land. A DEP agreement with this finding seems never to be applied to the Landscape Project mapping so that others can benefit from the changes. If there is no budget for updating this extremely powerful regulatory tool, it should not be enforced with such strength, in the Highlands or anywhere else in the State.

Response: The Highlands Council acknowledges the NJ Farm Bureau’s concern regarding the use of NJDEP Landscape Project mapping. As noted, critical wildlife habitat in the Highlands Region is based upon NJDEP’s Landscape Version 3.0, and any updates must be approved by NJDEP based on a showing that the area does not constitute critical habitat. On February 21, 2012 NJDEP released Landscape Project Version 3.1 which relies on Land Use/Land Cover data from 2007. The Highlands Council will continue to work with counties, municipalities and applicants regarding the evaluation of Highlands resources using the best available data in order to expedite knowledge and understanding of local conditions at the state and regional level.

Comment: In response to the Highlands Council statement in Vernon’s Final Draft Consistency Review and Recommendations Report (p. A-2): “the Land Use Capability Zones do not function as a surrogate for local administrative or political boundaries,” the New Jersey Farm Bureau inquires as to how any municipality will map the areas wherein different land uses are to be encouraged? Evidently the days of a landowner consulting a zoning map and a zoning ordinance to learn what is possible to do on his land are over since there are so many caveats and disparate mapping protocols of which to become aware. Throughout, the only remedy for the landowner apparently is expensive and extensive site-specific studies to overcome what regional-scale mapping is showing incorrectly. Is this any way to implement the Preservation Area goals of the Highlands Act to “promote compatible agricultural, horticultural, recreational, and cultural uses and opportunities,” and “brownfield remediation and redevelopment?”

Response: The Highlands Council acknowledges the NJ Farm Bureau’s concern regarding the details of regional mapping and local land use regulations. The RMP Land Use Capability Map Zones are overlay zones that are supported by local zoning and land use regulations. The Highlands Plan Conformance process includes the development of a Highlands Land Use Ordinance and municipal zoning map to ensure that local land use decisions are informed and align with the goals of the RMP and Highlands Act. Local applicants will

be affected by local zoning with regard to conforming and conditional land uses, with provisions of the Highlands Preservation Area Land Use Ordinance applicable to those land uses as relevant.

Comment: The New Jersey Highlands Coalition supports Vernon Township's petition for plan conformance. Since the Township has elected to include a Development Transfer Plan Element, we strongly urge the Township to conform its Planning Area. Even if there are opportunities to do so, we insist that TDR credits not be implemented in the Preservation Area. In addition, Vernon has many valuable environmental and historic Highlands Resources – many of which are constrained – which would be better protected and inventoried if the Township conformed in its entirety. In general, we are looking forward to seeing what the Council and the Township are able to achieve through plan conformance.

Response: The Highlands Council acknowledges the New Jersey Highlands Coalition support for Vernon Township's Petition. Please note that the inclusion of this Development Transfer Plan Element is optional and the municipality has elected to incorporate it. However, inclusion of this Element may be reconsidered, as there will be very limited opportunity to create a TDR Receiving Zone in the Preservation Area and_it is not needed to provide for Sending Zones therein.